

## 1. Yorkley Court Farm Lydney Road Yorkley

**Retrospective Change of Use (5 years) of a small area of land from agricultural to residential. Erection of 15 Temporary low impact structures as part of a single residential unit for 15 residents, change of use for old Nissen hut to residential, as part of the residential unit and erection of a compost toilet.**

**REFERENCE:**

P1266/14/FUL

01.08.2014 (Expiry Date: 26.09.2014)

**APPLICANT:**

Yorkley Court Community Farm Ltd  
Mr James Scrivens  
Yorkley Court Community Farm  
Yorkley Lane  
Lydney  
Gloucestershire  
GL15 4TZ

**PARISH**

West Dean

**WARD**

Pillowell

**WARD MEMBERS**

Cllr F Evans Cllr D Pugh

**CASE OFFICER**

Mr Stephen Colegate

**RECOMMENDATION: Refuse**

**This application is presented to Committee as it relates to a previous decision of the Council relating to possible enforcement action.**

**Members visited the site on the 19th August 2014.**



## **UPDATE REPORT for the 9th December 2014 Committee**

Members will recall that this application was presented to Planning Committee on 21 October 2014 and that the planning committee deferred the determination of the application in order for the following matters to be clarified:

- Details of income and expenditure to be included within the report.
- The current and proposed levels of live-stock.
- How can the number of residents be controlled to 15 only.
- Does the number of residents proposed (including or exclude children).
- The number of local people existing/proposed to live on-site.

### **Additional Information from the applicant**

Having considered the concerns raised and the questions sought by members the applicant has submitted a formal response to a number of queries/questions as follows (applicant's response in bold text):

1. Please confirm the current and proposed levels of live-stock.

#### **Current:**

- 10 chickens
- 2 pigs
- 3 horses
- 2 goats

#### **Proposed (approximate):**

- 2 horses
- 6 goats
- 2 pigs
- 48 hens
- Up to 10 ducks and geese

**These were not all mentioned before as only some of them are part of the business plans.**

2. Please confirm if there are children living on-site and the numbers.

**There is a couple with a child who are members of YCCF (the parents are part of the 15 proposed) they are not currently living on site full time, but hope to if planning permission is granted.**

3. Please confirm the number of persons at the site (proposed), including children as the application is solely for 15 individuals and 15 dwellings units as indicated within the description agreed with the group during the validation stages of the application.



**The proposal is for 15 adults and potentially children.**

4. Please confirm the number of local people existing/proposed to live on-site.

**We all consider ourselves to be local as we already live in the area.**

5. Please confirm what measures are proposed to address the identified deficiencies regarding water quality, sanitation provisions, washing facilities, clothes washing, disposal of grey and black water.

**Following liaison with the Environmental Health Officer we have made plans for a number of improvements: 5 additional composting toilets around the site, a shower and clothes washing room (currently a derelict MoD building behind the kitchen) and a soak-away greywater system. Please find attached:**

- 1. Designs for a proposed washroom (shower and clothes washing facility) situated in an existing MoD building, entitled "Washroom Design"**
  - 2. Greywater treatment plans, entitled "Waste Water at Yorkley Court Community Farm" and a schematic; "Willow Bed System"**
  - 3. Revised masterplan of site including; greywater system moved to outside adit exclusion zone, the washroom and 5 additional toilets, entitled "Masterplan November"**
  - 4. Additional plans for single cubicle toilet "Single Tree Bog"**
- The water system is undergoing maintenance today. It will hopefully be ready for water testing by EH later this week.**

**There is no "black water" produced on site**

6. As the proposal is only being sought for a temporary period of time a delivery plan for the mitigation measures to be implemented, including a timeframe of when the works will be implemented/completed, in relation to land contamination, land stability (coal mining risk), water quality and hygiene provisions is hereby sought.

**Please find "Construction Delivery Plans" attached.**

**This covers remedial works relating to land stability, land contamination, water, quality and hygiene and grey water provisions and when these works would be undertaken should any permission be granted.**

7. Please confirm if water is collected from St Anthony's Well and the purpose of this.

(Please note that I have previously requested that you clarify this matter (my email dated 13.10.2014) after several persons from the Yorkley Court Community had been seen filling a number of containers from the Well, to which your response (email dated 16.10.2014) indicated that "If residents of the farm choose



to do this, it is for this reason and is supplementary to the supply of safe, filtered drinking water available on site.”)

**No one at YCCF uses water from St. Anthony’s well as their main supply of water. If people choose to visit St. Anthony’s well that is their own personal choice.**

8. Please find attached a copy of a recent correspondence received regarding the ownership of the land, particularly as it is clearly indicated within the ownership declaration section of the application form for P1266/14/FUL that Mr James Scrivens is the owner of the land. In addition, please confirm the role/connection that Mr Scrivens has with the Yorkley Court Community Farm application.

**James Scrivens is one of the directors of Yorkley Court Community Farm Ltd and is one of the people who occupy the land.**

9. Please provide the market research as indicted within the response submitted by email on the 17th October 2014 titled ‘Response to agricultural appraisal by Robert Fox.’

**Please find “Market Research for Business Plans” attached. Unfortunately, the Tree Nursery market research is not yet in a completed format and will be sent separately, hopefully today.**

In addition, as indicated within the responses the applicant has provided the following (6th November 2014):

- Revised Master Plan
- Construction and Delivery Plan
- Market Research for Business Plan
- Nursery Market Research
- Wash Room Floor plan and elevation unnumbered drawing
- Tree Bog Drawing no 4
- Waste Water Statement
- Willow bed system for grey-water unnumbered drawing

### **Public Comments**

A total of 5 additional representations have been received following the completion of the late material presented to members at the 21st October 2014 Planning Committee. While 3 of these indicate support 1 retains a previous objection and 1 raises an objection regarding a legal dispute over land ownership.

### **Representations of Support:**

While the representations of support raise matters previously considered in relation to the use of land, the ‘experiment in permaculture and sustainability and the connection the scheme has with the Forest Food Hub and ethos of locally



produced food,' one (herein referred to as the 'Statement') makes a raft of additional comments as well as referring to a letter (submitted as part of the application 1 of 14 under Appendix G) not being previously considered in the recommendation for refusal.

The Statement (which is hereby summarised) indicates support for local producers under the Equality Act, 2010 and refers to the average age of the group (under 25) and that a toddler is present on-site, having been born there. The Statement also makes reference to the eviction enforcement notice not being granted by the Planning Committee and the responsibility of the Parish and District Council's under their Public sector Equality Duty. The Statement acknowledges the recent disturbances associated with a separate land ownership dispute, indicating that this was due to a separate dispute over land ownership. It questions the appropriateness of the Council's Rural Planning Adviser to give an opinion on a sustainable business plan, and goes on to indicate that the YCCF have not declared ownership as the Rural Planning Advisers appraisal states but have committed to acting as owners to care for the Farm.

The Statement also indicates that the author has stayed on-site over-night and used the facilities available, including drinking the water, compost toilet and washing facilities, and that the proposed use of land and the applicant's intentions would safeguard the character and appearance of the area, with no visual impact created beyond that of the former use. The Statement also indicates that there is no definition of a settlement boundary provided within the NPPF or the Core Strategy.

The Statement notes that while acknowledging 8 positive points the officers report has missed the key positive point that the proposal would create 15 jobs and 15 homes, while the objecting representations appear to have been taken out of one letter and not to fall within the planning remit.

The Statement also indicates that numerous grants and financial aids could be used to support such a scheme (Longevity) and raises matters (living on-site and highways) that have been previously considered within the Officer's Report and/or late material and therefore will not be revisited at this point.

#### Representations of Objection.

While one reiterates the strong objection to the applicants on matters previously raised and considered the second, from a legal representative indicates that the group (YCCF) are illegally squatting on the land without the owner's permission and that the owners are involved in obtaining a possession order. The Council is respectively advised through the representation that any consent that is prejudicially damaging to the lawful owner is illegal, or may give rise to a claim for damages.



## **Consultee Representations**

### **Food, Health and Safety Team**

While having not received a response on the additional information submitted on the 6th November 2014 by the applicant has previously indicated that a second site visit by the Environment Agency took place on the 20th October 2014, accompanied by a colleague from the Environmental Protection and Licensing team.

As a result of this it remains that the current arrangement for the disposal of waste water is insufficient. However, if the community implement the arrangements described in their documents "Waste Water" and "APPENDIX C LAND MANAGEMENT PLAN REVISED OCTOBER" and follow the advice provided by the Environment Agency, the waste water handling and disposal system is likely to be made adequate. However, their other observations regarding washing, toilet facilities and hygiene remain, although could potentially be addressed through the following provisions:

- *"Increase the provision of toilets (wc's) across the site. The design of composting toilet (tree bog) in use appears to be operating effectively, the Environment Agency having confirmed the risk to ground water sources is low.*
- *Make suitable and sufficient arrangement for the disposal of all waste water.*
- *Make suitable and sufficient provision for personal washing.*
- *Make adequate provision for clothes washing"*

(Please note that the information submitted by the applicant has the potential to address the bullet points above).

### **Forest of Dean District Council's Rural Planning Adviser**

Having considered the additional information received has concluded that it continues to remain that that a case has not overall been made, that the proposed community farm business is planned on a sound financial basis. Nor has a case been made that the business can financially support the proposed number of people assuming the personal expenses and income methodology.

### **Officers Comments**

As a result of the deferral by members the additional information that had been sought from the applicant by the 6th November 2014, it should be noted that this has been provided as indicated in the sections above.

In addition to the above the applicant has been informed that under the Public Health Act 1936 Moveable Dwellings (269 Power of local authority to control use of moveable dwellings) that a license is required for the low impact structures



currently/proposed at the site. This is a separate matter to that considered through this application.

Having regard to the late representations received we must be mindful that the planning system does not provide a legal right to develop land it merely considers whether a proposed use of land is acceptable or not. Therefore any civil dispute over land ownership remains separate to any decision reached through this application.

In acknowledging the Statement of support we should be mindful that within the officer's report the representations are only summarised. In addition, the Statement raises a number of matters that have been addressed and or could potentially be addressed through the use of conditions and therefore these matters will not be revisited. The representation is therefore not considered to have raised any matters that would alter the original recommendation. On the contrary the representation indicates a willingness to support the applicant through any appeal if necessary and in doing so contradicts that applicant's claim over the ownership on the land as well as indicating that children are living on-site. This matter is of concern particularly as the applicant has on numerous occasions confirmed that the proposal is solely for 15 resident's and 15 low impact dwellings, with no reference being made to families which could significantly increase the number of persons at this site.

The Statement makes reference to the Equality Act 2010 and the groups protected characteristic of age (average age of group 25 years and the youngest being a toddler). The application is being considered on its own merits of the proposed land use and the essential need to be living on the land (15 residents in 15 low impact dwellings). Having regard to the Equality Act 2010 it is therefore considered that the age of the group has no relevance in the determination of the application and therefore no conflict with the Equality Act 2010 has arisen.

In considering the potential use of the site by families we must be mindful that the applicant has confirmed that should any permission be granted then it is likely that families would be living at the site. While no specific details on the number of families has been provided members should consider that the 15 temporary structures would be used by families. In the event of any permission being granted this could be adequately controlled through planning conditions. Furthermore, while it is noted that should the application be refused and the applicant potentially be served notice to leave the site, that any responsibility to rehoming the applicant/members of the group would be considered on a case by case basis separate to the controls of planning system. However, we must also be mindful that the applicant in seeking to operate and live on this site without the benefit of planning permission has done so by choice.

In acknowledging the applicant's intension to enhance the welfare facilities on site through the provision of additional measures, and delivery plan, it is considered that these matters could be satisfactorily addressed through the use of conditions



should any permission be granted. This reason for refusal can therefore potentially be removed.

In response to members query regarding the income and expenditure the applicant has submitted market research (6th November 2014) that has been considered alongside their business plan for the development. It is noted that the Council's Planning Rural Planning Adviser, having been reconsulted on the additional information submitted, has indicated that the applicant has failed to demonstrate that the proposal would be financial viable.

In order to assist in the clarification of this matter the following is provided for member's consideration.

The applicant has indicated that the average annual income and expenditure for a resident in the Forest of Dean (2009 survey data used) and a resident of the YCCF as follows:

Average income for the Forest of Dean private tenants is £8991 which when considering the average monthly and yearly expenditure of £661.27 and £7935.15 provides an average disposable income of £87.98 per month.

Average income for a resident of the YCCF (arising from the 5 year average would provide a yearly income of £34277 divide by 15 people working full time (min of 30hrs/week) of approximately £2285 from which the average expenditure costs of £53.69 per month and £661.71 per year would leave approximately an average monthly disposable income of £135.31.

The applicant's income is based on 8 separate proposals which are envisaged to generate an annual income and expenditure on average over a 5 year period as depicted in Table 1 below. (Please note that these figures are taken from the applicant's business plan and the income and expenses tables therein include)



**Table 1**

<b>Business</b>	<b>Acres</b>	<b>Number of people</b>	<b>Total expenses over 5 Years</b>	<b>Profit over 5 years</b>	<b>Gross profit over 5 year period</b>	<b>Average Profit Per Year (profit – expense)</b>
<b>Market Garden</b>	2	2	£2650	£9960	£7310	£1462
<b>Community Garden</b>	3	4	£2115	£19750	£17635	£3527
<b>Laying Hens</b>	0.5	0.5	£800	£3898	£3098	£619.6
<b>Working Horses</b>	4	1.5	£2315	£9971	£7656	£1531.20
<b>Woodland Coppice and Crafts</b>	15	3.5	£32475	£68650	£36175	£7235
<b>Mycogeneration</b>	0.25	1	£8600	£24780	£16180	£3236
<b>Herbs</b> No income or expenditure provided, although the business plan indicates that a subsistence equal to £800 is envisaged to be provided.	0.25	1	X	X	X	X
<b>Tree Nursery</b>	0.5	1	£1940	£4640	£2700	£540
<b>Totals</b>	<b>25.5</b>	<b>15</b>	<b>£50895</b>	<b>£141649</b>	<b>£90754</b>	<b>£18150.80</b>

Having regard to Table 1 the proposal on average over a 5 year period would provide an income £1210.05 per person per year (envisaged by the applicant to result in £2285 at year 5).

In considering the applicant's business plans and the additional market research provided, it remains that the figures provided have not been robustly supported. Furthermore, having reviewed the average yearly income for the Forest of Dean using the Gloucestershire Strategic Housing Market Assessment update 2014 this is indicated at being £25,667 (page 20 paragraph 3.32) and thereafter on page 67 Table 6.1 the Median annual gross household income for a private rented tenure is £21,841. The figures are noted as being considerably different from that provided by the applicant (£8,991), which have been taken from the Forest of Dean Housing Survey 2009, which is being used as a comparison of income (disposable income). In light of this the proposed income for the residents is considered to be unrealistically low for 15 residents, which could potentially increase to 15 families following the applicant's latest information, and there is a real danger that the residents will not be able to live on a self-sufficient basis as described within their business plan. As a result of the additional information not satisfactorily demonstrating a sound basis on which the business



plan has been developed it is considered that the applicant has failed to satisfactorily demonstrate that the scheme could be financially viable.

Due to the minor alterations in livestock provision there is no need to revisit the functional need for living on the site as this is considered to remain unchanged from that previously considered. However, having regard to the additional information submitted relating to the welfare facilities/provisions, while the reasons for refusal can be revised to take into consideration the measures proposed as this could now be satisfactorily addressed through condition(s) the recommendation remains that of refusal as the applicant has failed to demonstrate an essential need to be living on the site.

The recommendation is therefore that of refusal for the following reasons:

### **Reasons for refusal**

01. The proposal seeks to create 15 low impact dwellings within the open countryside contrary to Section 6 of the National Planning Policy Framework and Policy CSP.4 of the Core Strategy. While the applicant's life-style choice is acknowledged in so far as the objectives of working the land in accordance the ethos of permaculture, there are no special circumstances, in accordance with paragraph 55 of the National Planning Policy Framework demonstrated, and although Section 3 of the National Planning Policy Framework and Policy CSP.7 of the Core Strategy support a prosperous rural economy these do not outweigh, the strict controls safeguarding the open countryside from new development, particularly where alternative solutions could be provided within settlement boundaries to meet the accommodation needs and still enable the delivery of the proposed management plan.
02. The proposed 15 temporary low impact structures by virtue of their temporary form, associated domestic paraphernalia, and no special need being demonstrated, detracts from the characteristics and appearance of this rural environment by creating a built form that is not in keeping with the area contrary to the guidance within Section 7 of the National Planning Policy Framework and Policy CSP.1 of the Core Strategy.

### **LATE MATERIAL REPORTED TO THE 21 OCTOBER 2014 PLANNING COMMITTEE**

#### **Additional Applicant's Representations**

The applicant has submitted additional information on matters relating waste water, water supply, washing facilities, toilet facilities, educational courses, coal mining legacy (land stability), ecology, highways (visibility splays), land contamination, response to Council's agricultural appraisal (by Mr Fox), response to the essential need and a statement to Councillors.



In addition the applicant has submitted (17th October 2014) revised information due to the coal mining legacy of the site and the representations provided by the Sustainability Team, as follows:

- Revised site layout plan, as a result of mine shafts at the site has been submitted by the applicant showing relocation of one temporary dwelling, three footpaths and the tree nursery moved to avoid intersection with the historic mine entry buffer zones.
- A revised (Appendix C) Land Management Plan taking into consideration the sustainability team's requests.

Further to the above the applicant has indicated that water is collected from St Anthony's Well (off-site at Green Bottom).

### **Public Comments**

Nine additional letters of representation in support of the application have been submitted that indicate the following:

- The site has been used for the storage of tree trunks, purchased and then processed on-site to generate firewood for two separate groups for heating their homes
- The group had previously been located at the Wilderness Centre and local people had encouraged them to establish themselves at Yorkley Court as its ownership was under question and it is a local resource being neglected with listed buildings falling into disrepair and meadowland being destroyed.
- The members of Yorkley Court have similar views to the Seed-Savers Group within the Forest of Dean and are enthusiastic and encouraging in discussions with the group.
- The members of Yorkley Court have set up and run the Forest Food Hub, a marvellous system for making local organic food and food-stuffs widely available at a low price which is growing steadily and helps support small local food producers and involves a number of other volunteers living elsewhere in the Forest of Dean.
- Will provide a wonderful educational facility.
- Number of letters of support incorrectly referred to in the Officers Report
- Reference to Bus service in Officers report factually incorrect. Route 727 does not run at any time which would be useable for a working person.
- Additional information has been received by the authority to resolve the issues raised.
- Concern regarding equality issues and the need to consider the toddler living on site.



## **Additional Consultation Responses**

### **Sustainability Team**

Having considered the revised/additional information submitted, no objection subject to conditions relating to:

- The colouration of the temporary structures;
- Condition and revised plan regarding management of site boundaries;
- For the construction method and materials of footpaths;
- A precautionary method statement is submitted for site clearance; and construction of yurts and boardwalks: covering dormice, reptiles and nesting birds;
- A biodiversity enhancement scheme for bats and dormice.

Please note that the Sustainability Team have not been reconsulted on the information submitted on the 17th October 2014 (Revised site layout plan and revised (Appendix C) Land Management Plant).

### **Land Contamination Officer**

Has confirmed that they are satisfied that land contamination can be adequately addressed through condition(s) should any permission be granted.

### **Coal Authority**

Has confirmed that they are satisfied that the revised site layout plan is acceptable to remove their objection subject to conditions being attached to any permission granted.

### **Food, Health and Safety Team**

Having been reconsulted on the applicant's late material and conducted a site visit on the 16th October 2014 the Food, Health and Safety Officer has indicated that the current arrangements for handling and disposal of waste water, the provisions for personal washing, the provision for washing clothes and the provision of two wc cubicles are insufficient for the number of residents (15) and that the applicant has failed to show how some fundamental requirements of human health will be provided.

### **Forest of Dean District Council's Rural Planning Advisor**

Having been reconsulted on the applicant's late material, the Rural Planning Advisor has indicated that "a case has not been made that the proposed community farm business is planned on a sound financial basis and can support the proposed number of people proposed."



## Officer Comments

It is noted that the applicant has submitted a raft of additional late information for consideration. As a result of this and consultee responses received, it is considered that matters relating to the delivery of visibility splays, land contamination and land stability could now be satisfactorily addressed through the use of conditions should any permission be granted. However, there remain substantive concerns over the living conditions of the occupants of the site and that of persons who could potential take part in educational courses proposed. In addition, the applicant has failed to demonstrate that the proposal would be viable and/or that there is an essential need to be living on the site.

In addition to the above it has been noted that the applicant has been collecting water from a spring (off-site) and while this could be for the potential benefits that this water is claimed to provide it does not meet with the group's ethos of sustainability if they are driving to collect water for whatever purpose. It also raises concerns over the standard of drinking water on-site which there remains insufficient information on. While it is acknowledged that this is also covered by separate legislation we must be mindful of the response from the Food, Health and Safety officer and the insufficient information/facilities provided by the applicant.

The late representations received from the local community following the completion of the officer report have either been previously considered by the officer and/or addressed. However, the following matters require clarification for members and the local community:

The reference made to Page 213 of the Committee Schedule and the bus service is noted. Having regard to this Members are advised that the reference to the bus route/service is actually within the Officer's summary of the applicant's transport summary submitted in support of the application under the Heading 'APPLICANT'S REPRESENTATIONS' and that the reference to "The site being on a bus route that runs 5 times a day" is actually of page 214 of the Committee Schedule (last paragraph). In light of the representation received the paragraph (summarising the applicant's submission) is hereby amended to read as follows:

The transport summary indicates that there are currently 6 vehicles on-site belonging to the applicant and that journeys by vehicle are limited to generally within 5 to 6 miles of the site. "The number 23 bus service runs hourly from Lydney to Gloucester and also to Coleford, where connecting buses go on to Cinderford and other areas of the Forest. The 755 which runs 5 times a day provides transport into Chepstow" and is located less than 1 mile from the settlement of Yorkley, which is accessible via footpaths across the adjoining fields, that has community facilities such as post office, local stores, public house, school and doctors in. There is ample parking for the provision for 20 vehicles on the existing hardstanding area and therefore no modifications are required. In the future there is also the potential for parking of several vehicles within the field close to the access gate. Should the application be declined for the low impact



structures then the level of vehicles entering and exiting the site on a daily basis is predicted to increase to potentially 30 as the need to undertake works associated with the crops, woodland management and live-stock would remain.

In addition to this members are advised that the site is located on local school bus routes 786, 791 and 823. While these have limited services they also provide for public use that would enable connection to the wider network. These traverse past the site entrance with stops being approximately 450 metres to the north and south of the site entrance respectively.

In addition, Members are advised that on Page 217 of the Committee schedule the first paragraph under the heading 'Neighbour Representations ' is hereby amended to read as follows:

"At the time of writing this report (including the completion of this late material) 18 separate representations (14 support, 1 objection and 2 raising general comments) have been received, with 2 being made by the same person. It is noted that three of the representations of support are from properties not of the local area (Cinderford, Lower Lydbrook and Stroud) and that a fourth is from a Group which supports the protection of meadows across the Forest of Dean that has undertaken surveys of the meadows that are part of the application site recently."

The comments regarding a third party use of the site for timber storage and production of fire wood as part of a separate group has not been referred to by the applicant and could potentially require a change of use from that being sought through this application. Please note that the sustainability team have not been reconsulted on the information submitted on the 17th October 2014 (Revised site layout plan and revised (Appendix C) Land Management Plan). However, it is considered that matters relating to tree and hedgerow protection and ecology could be addressed through conditions if any planning permission is granted. Finally having considered the applicant's late submissions on the viability of the scheme, the need to live at the site and the statement to members the following additional comments are provided. The Council's Rural Planning Advisor's response remains that the applicant has failed to robustly demonstrate that the proposed scheme would be viable. While the applicant has indicated that market research could be made available they have not produced this evidence which was a key factor raised in the first response from the Rural Planning Adviser and is fundamental to supporting their business plan. It is the view of council officers that a need for agricultural workers to live on site has not been proven

In addition, while the applicant has submitted an additional statement on the need, it remains that this has not robustly demonstrated that there is an essential need for persons to be living on the site to deliver the aims and objectives of the scheme. Having regard to the above it remains that many of the necessary on-site tasks could be performed during daytime hours when it is reasonable to expect that an agricultural worker would be present in any event and therefore there is little functional need to live on-site. On that basis, the proposal remains



contrary to the guidance within the NPPF and the Policies within the Development Plan.

The applicant's letter sent to Members and the Planning Authority makes reference to recent appeal cases (similar to the initial submission) where planning permission has been granted for a change of use to permaculture and/or temporary accommodation to be provided on smallholdings for similar purposes as those proposed. However the circumstances surrounding those appeals are different from those which exist here. In particular, the decisions mostly appear to concern enterprises that are better established than the appellants and where land ownership is not in dispute. In addition, members are advised that while it is acknowledged that there are appeal cases to support the applicant's proposal there are those that don't, which the applicant has not identified. In light of this members are advised that the application has been considered on its own merits and it is considered that the recommendation remains that of refusal subject to the following amendments to the reasons for refusal as set out below:

### **Reasons for Refusal**

01. The proposal seeks to create 15 low impact dwellings within the open countryside contrary to Section 6 of the National Planning Policy Framework and Policy CSP.4 of the Core Strategy. While the applicant's life-style choice is acknowledged in so far as the objectives of working the land in accordance the ethos of permaculture, there are no special circumstances, in accordance with paragraph 55 of the National Planning Policy Framework demonstrated, and although Section 3 of the National Planning Policy Framework and Policy CSP.7 of the Core Strategy support a prosperous rural economy these do not outweigh, the strict controls safeguarding the open countryside from new development, particularly where alternative solutions could be provided within settlement boundaries to meet the accommodation needs and still enable the delivery of the proposed management plan.
02. The proposed 15 temporary low impact structures by virtue of their temporary form, associated domestic paraphernalia, and no special need being demonstrated, detracts from the characteristics and appearance of this rural environment by creating a built form that is not in keeping with the area contrary to the guidance within Section 7 of the National Planning Policy Framework and Policy CSP.1 of the Core Strategy.
03. Inadequate facilities to satisfactorily demonstrate that suitable drinking water, washing facilities, toilet facilities and the disposal of waste water could be delivered would create a substandard living condition for residents and visitors to the site to the detriment to their welfare contrary to Policy CSP.1 of the Core Strategy.



## **REPORT PRESENTED TO 21 OCTOBER 2014 PLANNING COMMITTEE**

### **1. THE PROPOSAL**

This part retrospective application is for the temporary change of use of agricultural land to residential to enable the erection of 15 low impact temporary residential units, the change of use of a Nissen Hut currently on-site (also to residential) and the provision of a compost toilet on approximately 12 hectares of agricultural land. The applicant (Yorkley Court Community Farm Ltd) is seeking temporary permission for a period of five years to enable the development of a sustainable community and to continue the establishment of their educational farm inspired by the principles of food sovereignty, permaculture and agroecology, indicating that there is an essential need for residents to live at the site due to the labour intensive methods of working.

The applicant is proposing two designs for the temporary structures; yurts and geodomes, and that these would be erected at approximately 4.2 metres in length by 4.2 metres in width and 3.8 metres in height. These structures are proposed to be assembled from wooden poles and lattice covered with a dark green canvas, providing bedroom space only, for a maximum of 15 permanent residents on-site.

The existing Nissen hut is being sought for use as the communal kitchen and office space and the applicant has installed a wood-burner and flue into this building as well as water storage and filtration system with solar panels on the roof. The compost toilet is of a wooden construction, raised from the ground on timber poles, with an enclosed (wire mesh) compost area below.

### **2. SITE DESCRIPTION**

The site is located within the Parish of West Dean and adjoins the Lydney Town Council boundary to the east. The site is accessed to the south off Yorkley Lane (Class 3 Highway) via an existing gateway. This access then traverses southwest into the site until reaching the Nissen building which is located to the north of a large concrete hardstanding area. Adjacent to the Nissen Hut is a much larger corrugated building (having the appearance of a former army hangar) that is also being used by the applicant for storage (not sought for a change of use).

The site is outside of any settlement boundary and has open aspects (pasture fields) towards the entrance of the site (approximately 2.3 hectares). Some of this area is being used for the growing of vegetables and keeping livestock (one pig and a number of chickens). Thereafter the site is generally overgrown and wooded, although it is noted that the applicant has several areas within this that provide vegetable/herb plots.



During the site inspection it has been noted that there are a variety of structures throughout the overgrown/wooded areas, in close proximity to the Nissen Hut that are currently being used for residential uses. The compost toilet is located to the south of the Nissen Hut. These areas are generally accessed by paths that have been worn through the vegetation of the site.

There are two Public Rights of Way (PROW - Ref RWD/10/1 and RWD/12/2) that traverse northwest to south east through the site to the north and south of the Nissen Hut. The Grade II listed buildings of Yorkley Court and Badhamsfield Barn are located approximately 200 metres to the west and 150 metres to the north of the site respectively. Due to the existing agricultural buildings to the east of Yorkley Court and the topography of the landscape (rising east to west from the proposed site area) that views of these listed buildings are limited to glimpses and generally towards the northern end of the site.

### **3. PLANNING HISTORY**

The site is outside the settlement boundary and while no specific planning history relates to the site it is acknowledged that it had been used by the military in the past (Maintenance and repair of vehicles) and that it has a legacy of mining with four mine entries located within it.

It is confirmed that informal pre-application discussions were held on several occasions with the applicant prior to the submission of this application. This followed an enforcement investigation, which subsequently led to the Planning Committee approving an enforcement notice for the removal of the applicants and associated structures from the land on 1st August 2014 (yet to be served due to this pending application).

The pre-application discussions, while having limited information from the applicant to consider, advised that a full application be submitted so that the appropriate consideration to the proposed use of land could be provided. These discussions highlighted the need for ecology, arboricultural, landscape, mining risk, contamination, heritage asset and highway matters to be addressed through the supporting documentation. The applicant was also advised to discuss the requirements of any survey works with the relevant statutory consultees, prior to undertaking and submission, and to review the Council's validation checklist.

### **4. APPLICANT'S REPRESENTATIONS**

The applicant has submitted a design and access statement, supporting statement, evidence of community involvement, business plan, transport summary, access splay statement, coal risk statement, arboricultural report, land management plan, agricultural appraisal, Geoenvironmental report, letters of support, phase 1 habitat survey, automatic traffic count survey, previous events and workshops held at the site, woodland management plan, water statement,



electrical power and heating statement, agroforestry statement and a number of third party documents providing background to the ethos of sustainable living in support of the application. A summary of these is provided as follows:

The applicant's supporting statement indicates that the proposal is to develop a sustainable community that would provide a number of benefits for the Forest of Dean through the sustainable production of food and fuel. In doing so the supporting statement indicates that the proposal would demonstrate, with educational events and workshops, that small-scale agriculture can be economically viable and ecologically regenerative, while contributing towards healthier communities and rural enterprise. The use of the land will be guided by the principles of permaculture and agroecology, which goes beyond organic standards, and aligns the agricultural systems with the natural environment.

The project is linked with local groups and organisations and the aim is to strengthen the relationship with the Forest of Dean Community and to create a valuable reference for other projects and farmers across the country.

The 15 low impacts dwellings will collectively constitute a single dwelling unit based around the shared use of the central kitchen/toilet (Area around the Nissen Hut) and be constructed from locally sourced wood and covered in canvas. The proposal would be self-sufficient in terms of energy supply (solar power) and water is provided from a number of springs on-site which passes through a filtration system that includes both carbon filter and UV treatment chamber, to remove bacteria. Firewood would be used from the existing woodland (managed through coppicing) for the purpose of heating and cooking.

The applicant's business plan provides the projected financial forecasts for the sustainable community and how revenue from produce and educational courses (having consideration for the costs involved) would be delivered so that a profit could be returned. In addition the business plan provides an average income and expenditure for residents in the Forest of Dean and those living at the Yorkley Community Farm which concludes that within 5 years those living at the site will be able to maintain a standard of living which is greater, if not equal to, to the regional average.

The Coal Risk Statement indicates that due to the proposed nature of the temporary structures that they are exempt from needing a Coal Mining Risk Assessment.

The transport summary indicates that there are currently 6 vehicles on-site belonging to the applicant and that journeys by vehicle are limited to generally within 5 to 6 miles of the site. The site is on a bus route that runs 5 times a day and is located less than 1 mile from the settlement of Yorkley, which is accessible via footpaths across the adjoining fields, that has community facilities such as post office, local stores, public house, school and doctors in. There is ample parking for the provision for 20 vehicles on the existing hardstanding area and therefore no modifications are required. In the future there is also the potential for



parking of several vehicles within the field close to the access gate. Should the application be declined for the low impact structures then the level of vehicles entering and exiting the site on a daily basis is predicted to increase to potentially 30 as the need to undertake works associated with the crops, woodland management and live-stock would remain.

The applicant's access visibility splay statement indicates that splays of 120 metres would be required to enable safe access from the entrance of the site onto the public highway.

The Land Management Plan and Agricultural Appraisal indicate that the site would have 3 primary sections and how these are proposed to be operated/managed. The primary sections are the top fields (pasture), area around the Nissen Hut (residential space) and woodland. In addition the agricultural appraisal refers to the essential need for the community to be living on-site, in accordance with guidance within the NPPF (paragraph 55) as the proposed method of working is labour intensive, and details the demands that are integrated into the nature of sustainable lifestyles and difficulty in finding low cost affordable accommodation close enough to meet with these demands.

The applicant's preliminary ecological report, acknowledges that the proposed methods of working are likely to positively impact on the local biodiversity of the site and that while no protected species were identified, recommendations (as outlined in the report) are proposed to ensure that impacts are mitigated.

## **5. CONSULTATIONS AND NOTIFICATIONS**

### **West Dean Parish Council**

Has supported the application subject to the use of conditions restricting the use of the 15 temporary units to the 15 residents and no large gatherings allowed on site.

### **Lydney Town Council**

Has objected to the application indicating that it is outside the settlement boundary, potentially increasing human habitation of the site and question if the land is part of an agricultural holding.

### **Sustainability**

The ecologist, landscape and tree officer have sought additional information/clarification so that the potential impacts on protected species and/or their habitats, construction of paths within the site, management of existing boundaries and photographs from surrounding viewpoints so that the application can be appropriately assessed.



### **Environmental Health Officer**

Agrees with the recommendations within the applicant's Geotechnics Report to remove the source of TPH and cyanide contamination. However, the extent of the contamination has not yet been established and further investigations in the vicinity of the depot, particular TP1, TP2 and TP3 to delineate the contamination prior to remediation works commencing.

### **Gloucestershire County Council – Highways**

Has no objection to the application subject to conditions controlling the delivery of 82 metre visibility splays and the existing car parking as shown on the submitted drawings being maintained for the duration of the development.

### **Health and Safety Executive (PADHI+)**

Has indicated that they would not advise against the development.

### **Coal Authority**

The Coal Authority has raised substantive concerns over the proposal as the site falls within a defined development high risk area. While acknowledging that the proposal is for low impact structures, in this instance due to the nature of the coal mining risks on the site (untreated mine entries) and use for residential purposes, has indicated that a Coal Mining Risk Assessment is required.

### **Natural England**

Has no objection to the proposal.

### **Gloucestershire Public Rights of Way**

Has provided no representation.

### **Ramblers Association**

Have no objection to the application subject to the footpaths being kept clear at all times.

### **Forest of Dean District Council's Rural Planning Adviser**

Having appraised the applicant's Business Plan the rural planning adviser has indicated that there are a number of issues, particularly relating to market research, quality of soils and therefore ability to deliver produce, feasibility information on the proposed educational courses to justify the proposed figures, veterinary bills under estimated, that bring into question the viability of the business proposal and the ability to deliver a viable scheme.



## **Private Sector Housing**

Has indicated in accordance with the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, as amended by SI.2007/1903 that the amenity provisions are inadequate for the number of people proposed on site. They are also concerned that the application makes no reference to washing facilities for the occupants (showers, wash basins etc.) and that two toilets would be insufficient for 15 residents, with no provision for visitors.

## **Food, Health and Safety Team**

Has indicated that there is no mains water to the site which is proposing to utilise a private water supply [spring fed] which will be used to serve the site. Private water supplies serving the site will be dealt with by the Food and Safety team under the Private Water Supply Regulations 2009.

In addition, the food, a health and safety officer notes that there are no utilities on site and there is no indication how waste water will be disposed of in a suitable and hygienic manner to avoid contaminating other water courses. Grey Water is mentioned in Appendix P Site waste management plan Grey Water, but there are no details to show how the waste water will be handled and disposed hygienically to avoid contamination of the springs and other water courses.

## **Neighbour Representations**

At the time of writing this report 8 representations (5 support, 1 objection and 2 raising general comments) have been received. It is noted that three of the representations of support are from properties not of the local area (Cinderford, Lower Lydbrook and Stroud) and that a fourth is from a Group which supports the protection of meadows across the Forest of Dean that has undertaken surveys of the meadows that are part of the application site recently. These representations have been summarised as follows:

### Representations of support:

- Support to the low impact and sustainable dwellings
- Will enable the Yorkley Court Community Farm to continue their vital work in education, youth outreach.
- Demonstrates the viability of sustainable low-carbon and low impact living on the land. Offers both environmental and community benefits through a sustainable local enterprise
- Demonstrates a great way of staying-being local and using produce of surrounding local farmers.
- The group are active within the local community and assist in events and are helping the eco-club in the local school.



- Are working sympathetically with the soil management and biodiversity of the site and protecting it from destructive development or intensive agriculture.
- Working towards reversing the severe neglect of Yorkley Court Farm.
- Land has been farmed for many generations and it is fitting that it should continue.

#### Representation of Objection:

- Way of seeking to regularise the use and ownership of the land.
- Control over the site and numbers of residents. Recent events highlighted that the site would be used by other than those proposed which could potentially create anti-social behaviour.
- Concerns over the group's involvement with the local school and vetting processes undertaken.
- Damage created to the listed building and outbuildings (Yorkley Court).
- Additional camping taking place at the site.
- Adverse impacts on the highway.
- Adverse impacts on flora and fauna and concern over the applicant's management of the land.
- Inconsistency in Planning Laws and Enforcement.
- Support from Local Councillors indicated in the local press, when they do not live in the area and relationship with family members or friends on site should be declared.
- Precedent would be set if permission granted for any agricultural land to be occupied.

## **6. POLICIES**

### **National Planning Policy Framework**

Section 1 - Building a strong, competitive economy

Section 3 – Supporting a prosperous rural economy

Section 4 – Promoting sustainable transport

Section 6 – Delivering a wide choice of high quality homes.

Section 7 – Requiring good design

Section 8 – Promoting healthy communities

Section 10 – Meeting the challenge of climate change, flooding and coastal change

Section 11 - Conserving and enhancing the natural environment

Section 12 - Conserving and enhancing the historic environment

### **National Planning Practice Guidance**

Rural Housing – recognises the importance of particular issues facing rural areas in terms of housing supply and affordability and refers to the National Planning



Policy Framework Section 3 and 6 which 'clearly' sets out the criteria for such proposals.

### **Core Strategy**

CSP.1 - Design and Environmental Protection

CSP.2 – Climate Change

CSP.3 – Sustainable Energy use within Development Proposals

CSP.4 - Development at Settlements

CSP.5 - Housing

CSP.7 – Economy

CSP.16 – Settlement Policies

### **Allocations Plan**

A draft version of the Allocations Plan has been issued for consultation. It has been endorsed by Council and approved for consultation. It represents the Council's up to date thinking including its views on the location for development in the district and should be read alongside the adopted Core Strategy. It is a material consideration and can be afforded some weight in the decision making process.

AP.1 - Sustainable Development

AP.3 - Design of Development

AP.4 - Style and Materials

AP.7 - Biodiversity

### **Supplementary Guidance**

Forest of Dean Landscape Character Assessment (2002)

The Landscape Character Assessment designates the site within the 10a Allaston Ridge, as having a field pattern that reflects regular enclosure of former common pasture and waste. These are of moderate size and defined by a network of often overgrown hedgerows, with woodlands tending to be of a linear copse running along streams.

## **7. EVALUATION**

This retrospective change of use application is seeking a temporary 5 year permission for Yorkley Community Farm Ltd (applicant) to erect 15 low impact dwelling units and change of use of an existing Nissen Building, associated with the sustainable working of 12 hectares of agricultural land approximately 750 metres to the south of the settlement boundary of Yorkley.

The applicant claims that due to the sustainable working of the land, which is labour intensive, that there is an essential need, for 15 individual temporary



structures (15 residents only – people visiting for training event either camping on-site under the 28 day rule or staying at local B&Bs and camp sites) that would share a communal kitchen/office area (existing Nissen Hut) to permanently live at the site. The applicant has indicated that it is difficult to find alternative affordable accommodation within the local area that could meet with the community farm's needs and therefore there is an essential need to live on-site.

In addition to the above and for clarity members should note that the ownership of the land is currently under dispute, and while the applicant has confirmed both verbally and in declaration on the application form that they are the owners, they have also acknowledged within their supporting information that a separate legal challenge regarding land ownership remains. In acknowledging this members are advised that this is a separate civil matter. While not being considered through this planning application, which is solely considering the proposed use of land and associated structures, the outcome could adversely affect the ability (viability) to deliver the aims and objectives of the scheme in the event of an unfavourable decision being made against the Yorkley Community Farm.

The following material considerations are relevant to the determination of this application:

- The Principle
- Character and Appearance
- Living Conditions
- Highways Impact
- Land Contamination
- Land Stability
- Other Matters

### **Principle of Development**

Having regard for guidance within the NPPF (paragraph 17) there is a presumption in favour of sustainable development provided that it integrates into the surrounding character and appearance of the environment through its design and does not adversely impact upon highway safety, living conditions, heritage assets and biodiversity.

However, it is noted that the NPPF paragraph 11 stipulates that planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Core Strategy seeks to strictly control development outside of settlement boundaries with Policy CSP.4 clearly setting out that most changes to towns and villages will be expected to take place within settlement boundaries and areas outside of this will be treated as part of the open countryside, but notes that (rarely) new buildings for employment uses on the edge of settlements could be acceptable.



In rural areas such as this the principle of working the land for agricultural purposes is acknowledged as being acceptable. The land is grade 3 agricultural land, and while having historically been used for military purposes (maintenance and testing of vehicles), it has since reverted to being agricultural and, as it is outside any settlement boundary, in the open countryside.

The proposal seeks to erect 15 low impact residential units on this parcel of agricultural land for 15 permanent residents. Having regard to the guidance within Section 6 of the NPPF and Policy CSP.4 of the Core Strategy it is acknowledged that sustainable housing be delivered within settlement boundaries and or rural areas (villages) where it would enhance and maintain the vitality of rural communities and strictly controls the provision of residential development in the open countryside unless special circumstances indicate otherwise. These special circumstances, in accordance with the Guidance within Section 6 paragraph 55 of the NPPF, being for a rural worker, associated with a heritage asset, reuse of a redundant or disused building that would lead to an enhancement to the immediate setting and/or that the design is of an exceptional quality or innovative nature.

The special circumstance which could be relevant in this instance is for agricultural workers (total 15 permanent residents, with additional visitors taking part in educational workshops) to be living on site due to the labour intensive nature of the sustainable life-style.

While it is acknowledged that the NPPF replaced the planning guidance for rural workers contained within Annex A of Planning Policy Statement 7 (PPS7) it provided a clear, tried and tested criteria for assessing the essential need for a dwelling in the open countryside and the basis of this is used for consideration of this full application. It is however, important to note that the NPPF makes no provision for the use of temporary accommodation to seek to demonstrate the need for a rural dwelling.

In accordance with Clause 12 to Annex A to PPS 7, residential requirements of a new farming activity would normally, for the first few years, be provided by temporary accommodation that should satisfy a number of set-out criteria.

It is considered there is no need to elaborate on the applicant's intentions as this is a conscious choice of life-style that only those with a strong ethos of sustainable living would chose to follow, which is considered to remove the concerns raised by local residents over setting a precedent for future proposals of similar schemes being brought forward. However, there are concerns over the essential need for 1 let alone 15 people to be living on site when considering the various proposals of the business plan.

In considering this the applicant's agricultural appraisal is acknowledged and read in conjunction with the business plan. It is not in dispute that livestock would require early morning and late evening attention and that occasionally matters could arise that require emergency action. However, when considering the



livestock proposed after 5 years; 49 laying hens, 3 (4 indicated in agricultural appraisal) horses, that would be on-site and the 1 pig noted during the officer's site inspection, it is not considered that this level of livestock demonstrates an essential need for a person(s) to be living on-site.

While acknowledging the applicant's crop growing and management proposals and that this could be labour intensive during certain periods of the year (several areas of the site having already been laid to vegetable patches and a herb garden), potentially affected by frost, adverse weather and or theft, this would not be dissimilar of any allotment association where similar issues could arise. In addition the coppicing of the wooded area would be undertaken during the day. It is therefore not considered that any emergencies would arise that would justify the essential need for a person to be living at the site permanently. On the contrary, given the sites proximity to the nearest settlement (approximately 750 metres) it is considered that accommodation within this settlement could enable any emergencies to be dealt with quickly and without serious loss to crops and/or products or affecting animal welfare.

The applicant has indicated (agricultural appraisal page 7) the difficulty in finding affordable accommodation close enough to meet the demands of their proposal. However, having undertaken a brief desk-top survey of the property market within the local settlement several low rent properties were noted as being available. While these may not meet with the applicant's life-style choice they do offer an alternative to permitting dwellings, temporary or not, within the open countryside contrary to the Development Plan, that could be utilised to implement a scheme such as is being proposed.

The proposed educational courses are envisaged to be run during the day and while it may be desirable to stay overnight at the site it is not essential and therefore not considered to demonstrate an essential need. It is noted that no details on where students would be accommodated at the site have been provided and therefore any associated impacts that could arise are difficult to assess and or mitigate against.

Having regard to the above, while acknowledging the applicant's desire to be self-sufficient and sustainable, it is not considered that there is an essential need for a person(s) to be living on-site for either the envisaged level of animals and or the agricultural processes proposed. These demands could be met by a person(s) living in the local settlement of Yorkley or one of the surrounding settlements, which having considered the applicant supporting information, are well connected to the site by the local bus service. Therefore, while there may be difficulties there are alternatives that could be used to enable the proposed sustainable working practices on this parcel of land to be delivered that would not conflict with the Development Plan.

Having regard to whether it is necessary to be living on-site to enable the sustainable management of the land to be functionally delivered it is considered that this has not been demonstrated. On the contrary, given the sites location



close to the nearest settlement boundary and that of wider settlements through the bus service, the applicant's ethos of sustainably managing the site for agricultural purposes could be delivered without conflicting with the Development Plan.

There are concerns over the viability of this agricultural business and whether this is sustainable for the foreseeable future, particularly as a separate legal challenge regarding the ownership of the land is currently being pursued which could result in the applicant being evicted from the land at short notice. Having regard to these concerns the Council's Rural Planning Adviser has been consulted, and considered the applicant's business plan to be lacking of supporting information/evidence to demonstrate the feasibility of the proposed project and revenue streams in general and while a comparison with the average income of a person living within the Forest of Dean has been provided this uses out of date survey information and therefore minimal weight can be given to this analysis. It is also noted that the Council's Rural Planning Adviser questions whether disposable income is important or not, but acknowledges that this has been used by the applicant as their bench mark.

Considering the uncertainty over the viability of the scheme, which rests on a number of factors from soil quality (does this require enhancement which is not factored into the business model), marketing and feasibility of the business plan, on balance it is considered that the applicant has failed to satisfactorily demonstrate that the scheme could be viable.

Having regard to the above the principle of providing 15 temporary low impact dwellings in the open countryside for agricultural purposes has been assessed and it is considered, that while rural enterprise should be supported in accordance with Section 3 of the NPPF and Policy CSP.7 of the Core Strategy, that these dwellings are not required for agricultural reasons (life-style choice only) and the proposal fails to meet with a tried and tested approach of assessment. Therefore the principle of providing 15 temporary low impact dwellings within the open-countryside is not accepted in accordance with the guidance within Section 6 of the NPPF and Policy CSP.4 of the Core Strategy, which on balance outweigh the principles of Section 3 of the NPPF and Policy CSP.7 of the Core Strategy.

### **Character and Appearance**

Section 7 of the NPPF and Policy CSP.1 of the Core Strategy indicate that good design is indivisible from good planning and that the surrounding characteristics should be taken into account and maintained and/or enhanced. The site is outside of the settlement boundary and considered to be within the open-countryside. While it is acknowledged that a former use associated with vehicle repair and maintenance had been undertaken the site has generally naturally regenerated and has become overgrown. Besides the access track (stoned surface) and the area immediately adjacent to the Nissen Hut and larger Hangar



building, the site is considered to be that of grade 3 agricultural land within the open countryside.

The site is generally well screened from the surrounding environment by the natural topography, and while views can be gained when traversing the PROWs through the site, these are restricted due to the vegetation of the site. It is noted that the use of low impact structures and associated domestic paraphernalia, re-use of the existing Nissen Hut and parking of vehicles at the site, would be more intrusive than if the site was left to naturally develop.

It has been noted during the site inspection that there are a number of structures currently on-site (which have been occupied for approximately 2 years) that are of a poor appearance and detract from the character and appearance of the area through either the type of structure and/or the colouration of the materials used. It is considered that if an essential need had been demonstrated that the removal of these structures would be required and that 15 yurt/geodome temporary structures as proposed only would be erected. It is considered that this matter could be adequately controlled through the use of conditions.

However, as no essential need has been demonstrated the temporary structures (low impact or not) and the associated paraphernalia (cars, compost toilet), are considered to be detrimental to the characteristics and appearance of this rural environment by creating built form(s), and associated domestic paraphernalia, that are not in keeping with the area contrary to Section 7 of the National Planning Policy Framework and Policy CSP.1 of the Core Strategy and Policy AP.3 of the emerging Allocations Plan.

### **Living Conditions**

Policy CSP.1 of the Core Strategy indicates that new development should respect the surroundings, including their wider context. In this instance as the nearest residential properties are in excess of 130 metres from the proposed site it is not envisaged that any adverse impacts on their living conditions would be created.

When considering the impacts on living conditions we must also be mindful of those living on-site. In considering this the applicant has indicated that natural resources (produce, water, wood, sun-light) and that waste disposal (compost toilet) would be utilised in accordance with the ethos of the sustainable management of the site. The proposed methods are recognised as providing alternative solutions for energy generation and waste disposal in accordance with the life-style choice of the applicant. However, it is noted that the representation from Private Sector Housing has raised concerns over the provision of washing facilities and the insufficient number of toilets (2 for 15 residents and visitors). In addition, while again the proposal to provide a water supply is a recognised method it is noted that the applicant's water statement indicates bacterial levels are above safe drinking levels. While the proposed water filtration system/measures have the potential to remove the unsafe bacteria no evidence to demonstrate that this is being achieved has been provided. Additionally, no



details regarding the discharge of waste water arising from washing/washing has been provided.

It is noted that the food, health and safety officer has indicated that the provision of a private water supply is covered by separate legislation (Private Water Supply Regulations 2009) and that they note that no details on the discharge of waste water has been provided to avoid contamination of the springs and other water-courses on site.

Having regard to the health and safety of any occupants of the site, while acknowledging that the quality of drinking water is covered by separate legislation, which the planning system should not seek to duplicate, and that this matter could potentially be overcome through further survey work and or treatment measures of the water there is too much uncertainty to be satisfied that this use of land would not adversely impact on the well-being of any occupants (residents and/or visitors). Therefore on balance the proposal is considered to be contrary to the guidance within Section 11 (paragraphs 120 to 122) and Policy CSP.1 of Core Strategy. In addition, even if the matters relating to living standards could be satisfactorily addressed it is not considered that this would overcome the conflict with the Guidance within Section 6 of the NPPF and Policy CSP.4 of the Core Strategy as no essential need has been demonstrated to be living at this site in the first instance.

### **Highway**

Section 4 of the NPPF indicates that development proposals should only be refused on highway grounds where the impacts are severe. While there are no concerns over off road parking given the large hardstanding area within the site and the proposal to utilise this as part of the application, regard is provided to the applicant's speed survey and the County Highway Officer's representation. These indicate that visibility splays of 82 metres in both directions would be required at the access point onto Yorkley Lane. While this could be delivered on land to the south (indicated within the applicant's control) it is noted that to the north land outside of the applicant's control (approximately 60 metres) would be required to meet this requirement. While the applicant has been provided the opportunity to demonstrate that an agreement is in place with the adjacent land owner and or notice has been served this has not been satisfactorily demonstrated by the applicant.

Having regard to the above, while acknowledging that the highway officer recommended conditions on this matter there is an element of doubt that could create an adverse impact on other road users should this land not be agreed with a third party to provide the required visibility. In the interests of highway safety it is therefore considered that there is insufficient information to determine if the applicant could deliver the required visibility and that without this information it cannot be determined that a severe impact or not would be created. The proposal is therefore considered to generally conflict with the Guidance within Section 4 of the NPPF.



## **Ecology**

Under the Natural Environment and Rural Communities Act 2006 Chapter 1 Part 3 Section 40 the Forest Dean District Council has a duty to conserve biodiversity in exercising their functions. Additionally, Section 11 of the NPPF and Policy CSP.2 of the Core Strategy aim to safeguard and enhance biodiversity.

Having regard to the above, and having undertaken consultation with the Council's sustainability team (ecologist), further information has been sought from the applicant relating to protected species. It is noted that the applicant has not submitted any further information at the time of writing this report and although seeking an extension of time to be able to collate the required information, has previously been advised on a number of occasions (pre-application meetings and being subsequently following the submission) that matters relating to ecology would be required to be satisfactorily address. In considering this matter, while taking the precautionary approach it is considered that insufficient information has been provided to establish the impacts on protected species and or their habitat and/or any mitigation measures that could be used. While an extension of time could potentially enable concerns on the matter to be addressed it is not considered that on balance this would outweigh the conflict with the Development Plan. It is therefore considered that at the time of writing this report the proposal conflicts with the Natural Environment and Rural Communities Act 2006 and the guidance within Section 11 of the NPPF and Policy CSP.2 of the Core Strategy and that no benefit to agreeing to an extension of time would be gained as the application would remain contrary to the guidance within Section 6 of the NPPF and Policy CSP.4 of the Core Strategy in any instance.

## **Land Contamination**

There are concerns over land contamination in that the applicant has failed to establish the extent of the contamination. As such, while not seeking to duplicate separate pollution control legislation that would cover any remedial works required, we must also be mindful that persons are proposing not only to live on-site but to work the land self-sufficiently, selling produce to the local community. On this basis it is considered that insufficient information has been provided to enable suitable mitigation measures to be conditioned in order to safeguard the proposed residents/visitors, and or the wider community from the potential exposure of contaminants.

## **Land Stability**

It is noted that the site falls within a High Risk Area for development due to the coal mining legacy. There are four recorded mine entries and the Coal Authority has substantive concerns over the proposed development, particularly as no risk assessment has been undertaken. The applicant had been advised during the pre-application discussions to address the Coal Mining Risk within their submission. However, due to the low impact nature of the proposed structures



the applicant had considered that they were exempt from the need for undertaking a Mining Risk Assessment. They have subsequently, following the Coal Authority Representation, been afforded the opportunity to address this matter with the submission of a Risk Assessment. However, no further information has been provided. Having regard to the Guidance within Section 11 (paragraph 121) of the NPPF it is therefore considered that insufficient information has been provided to determine the impacts of the mining legacy on the proposed use of land. Taking the precautionary approach it is therefore considered that the proposal fails to satisfactorily demonstrate that no adverse impacts would arise and is therefore considered to conflict with the Guidance with Section 11 of the NPPF.

### **Other Matters**

Having considered the representations received from the Parish/Town Council's and the local residents regarding the use of the site, these are generally considered above. However, it is prudent to acknowledge that the level of local support and or representation is minimal for a scheme that implies a high level of community involvement and association, particularly as it is indicated that the applicant has been on-site for approximately 2 years. Furthermore while noting the listed buildings to the north and west of the site, given the distances of separation and the natural screening, no adverse impacts are envisaged to be created. Concerns over structural damage and theft from Yorkley Court is a civil matter and not a consideration for the determination of this application.

The applicant has been advised that any proposal would need to satisfactorily demonstrate that no adverse impacts would arise on the surrounding environment and/or biodiversity of the area during the pre-application stages and subsequently through the consideration of the application. However, there remains at the time of preparing this report matters outstanding that could potentially be addressed through further survey works and/or additional information. However, it is not considered that should matters relating to ecology, highways, land contamination, land stability, water supply and or facilities for washing and disposal of waste water, be satisfactorily addressed that this would overcome the conflict to the guidance within Section 6 of the NPPF, the guidance within the NPPG on rural housing and Policy CSP.4 of the Core Strategy, and subsequently the character and appearance of the area. While the applicant has been notified of the additional information and provide a final opportunity to submit prior to determination (Planning Committee) it is considered that there would be no benefit to continue with seeking further information from the applicant in this instance as the final conclusion would remain unchanged.



## 8. CONCLUSION

This part retrospective application is for the temporary change of use of agricultural land to residential to enable the erection of 15 low impact temporary constructed residential units, the change of use of a Nissen Hut currently on-site (also to residential) and the provision of a compost toilet on approximately 12 hectares of agricultural land. Having considered the applicant's supporting information it is considered that while sustainable development is at the heart of the Guidance within the NPPF and Development Plan, that in this instance the applicant's life style choice of providing an agricultural facility that practices the ethos of sustainable land management could be delivered without the need for persons to be living at the site. Particularly, when the site is located within close proximity to a settlement boundary, and has transport links to the wider area that could provide alternative accommodation without conflicting with the Development Plan.

Having regard to the above, no special circumstances in accordance with (in the absence of any other tried and tested assessment) the criteria of Clause 12 to Annex A to PPS 7 have been demonstrated. In addition, the applicant has not demonstrated that a safe access could be delivered and therefore the proposed access has the potential to adversely impact on highway safety, and insufficient information has been provided to ensure that land contamination can be adequately mitigated, protected species can be safeguarded and that no adverse impacts would arise due to the mining legacy of the area on the permanent residents and/or visitors to the site. Furthermore there are substantial concerns with regards to the substandard living conditions (water and toilet provisions). Therefore while acknowledging that the Guidance with Section 3 of the NPPF supports rural business the provision of 15 temporary low impact structures for 15 permanent residents, at this site within the open-countryside is considered to be contrary to the Guidance within Sections 6, 7 and 11 of the NPPF and Policies CSP.1, CSP.2 and CSP.4 of the Core Strategy and there are no justifiable reasons to permit the application. The recommendation is therefore one of refusal.

## 9. RECOMMENDATION

**It is recommended the application be REFUSED for the following reasons:**

01. The proposal seeks to create 15 low impact dwellings within the open countryside contrary to Section 6 of the National Planning Policy Framework and Policy CSP.4 of the Core Strategy. While the applicant's life-style choice is acknowledged in so far as the objectives of working the land in accordance the ethos of permaculture, there are no special circumstances, in accordance with paragraph 55 of the National Planning Policy Framework demonstrated, and although Section 3 of the National Planning Policy Framework and Policy CSP.7 of the Core Strategy



support a prosperous rural economy these do not outweigh, the strict controls safeguarding the open countryside from new development, particularly where alternative solutions could be provided within settlement boundaries to meet the accommodation needs and still enable the delivery of the proposed management plan.

02. The proposed 15 temporary low impact structures by virtue of their temporary form, associated domestic paraphernalia, and no special need being demonstrated, detracts from the characteristics and appearance of this rural environment by creating a built form that is not in keeping with the area contrary to the guidance within Section 7 of the National Planning Policy Framework and Policy CSP.1 of the Core Strategy.
03. Insufficient information has been provided to demonstrate that the safety of other road users will be safe-guarded through the provision of visibility splays measuring 2.4 metres by 82 metres in both directions from the site entrance. The proposal is therefore considered, without the applicant demonstrating that the visibility splays can be delivered, to conflict with the Guidance within Section 4 of the National Planning Policy Framework and Policies CSP.1 and CSP.4 of the Core Strategy.
04. Insufficient information has been provided to mitigate the potential adverse impacts of land contaminates on the living conditions of the occupants of the site and those undertaking courses and/or purchasing products produced at the site contrary to the Guidance within Section 11 (paragraphs 120 to 122) of the National Planning Policy Framework and Policy CSP.1 of the Core Strategy.
05. Insufficient information has been provided to demonstrate that residential occupants and/or visitors to the site would be safeguarded, and/or that the use of mitigation measure could be used, from adverse impacts arising from the coal mining legacy of the site. The proposal therefore conflicts with the Guidance with Section 11 (paragraph 121) of the National Planning Policy Framework.
06. Insufficient information has been provided to demonstrate that protected species and or their habitats, and/or to enable the use of mitigation measures, would be safeguarded contrary to the Guidance within Section 11 of the National Planning Policy Framework and Policy CSP.2 of the Core Strategy.
07. Inadequate facilities to satisfactorily demonstrate that suitable drinking water, washing facilities, toilet facilities and the disposal of waste water could be delivered. This creates substandard living conditions for residents and visitors to the site to the detriment to their welfare contrary to Policy CSP.1 of the Core Strategy.



## **NOTE**

1. In accordance with the requirements of the National Planning Policy Framework, the Local Planning Authority has sought to determine the application in a positive and proactive manner offering pre-application advice, made available detailed published guidance to assist the applicant and published to the council's website relevant information received during the consideration of the application thus enabling the applicant to be kept informed as to how the case was proceeding. In an attempt to overcome the planning objections and the conflict with Development Plan Policy negotiations have taken place with the applicant to address identified issues of concern. However, negotiations have failed to achieve sustainable development that would improve the economic, social and environmental conditions of the area for the reasons set out above.
-